

REMARKS

I. Response to May 6, 2009 Office Action

In the outstanding Office Action dated May 6, 2009, the Examiner stated that the response (Amendment and Reply to Restriction and Election of Species Requirements) filed on February 23, 2009 was not fully responsive to the prior Office Action. In particular, the Examiner acknowledged that Applicants have elected Group III, directed to claims 7-9. However, according to the Examiner, after entry of the claim amendments set forth in the February 23 response there are no claims pending that are drawn to the elected subject matter and available for examination. In particular, the Examiner stated that the addition of the feature "inherent in the organism" in claim 7 results in a claim that "does not read on the original invention." The Examiner further stated that in order to pursue the amended claims, Applicants would need to file a divisional application.

In response, Applicants respectfully submit that the subject matter of the claims as amended in the February 23 response is encompassed by the subject matter of the elected Group III and should be examined in the present application.

II. Statement of the Substance of the Interviews

Applicants would like to thank the Examiner and the Examiner's Supervisor for the telephone interviews with Applicant's representative on May 15 and May 19, 2009. During the May 15 interview with the Examiner, the Examiner reiterated her position as set forth in the Office Action (see the Examiner's Interview Summary Statement dated May 21, 2009). However, in the May 19 interview with the Examiner and the Examiner's Supervisor, all of the participants agreed that claim 7 as amended is properly directed to elected subject matter, and that at least claim 7 should be examined in the present application. The Examiner and Supervisor's helpful cooperation is greatly appreciated.

In view of the above, Applicants respectfully request favorable consideration of the currently pending claims on the merits.

CONCLUSION

This response is made without prejudice or disclaimer to any non-elected subject matter, and Applicants reserve the right to file one or more continuation and/or divisional applications directed to any non-elected subject matter.

From the foregoing, further and favorable action in the form of a Notice of Allowance is respectfully requested and such action is earnestly solicited.

In the event that there are any questions concerning this Reply or the application in general, the Examiner is respectfully requested to telephone the undersigned so that prosecution of the application may be expedited.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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